

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-6917

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

WILFREDO GONZALEZ LORA,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Leonie M. Brinkema, District Judge. (1:98-cr-00358-LMB-4; 1:11-cv-01413-LMB)

Submitted: August 16, 2012

Decided: August 21, 2012

Before KING and THACKER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Wilfredo Gonzalez Lora, Appellant Pro Se. Andrew Lamont Creighton, OFFICE OF THE UNITED STATES ATTORNEY, Newport News, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Wilfredo Gonzalez Lora seeks to appeal the district court's order construing his motion for hearing as a successive 28 U.S.C.A. § 2255 (West Supp. 2012) motion and dismissing it without prejudice on that basis, and the court's order denying his Fed. R. Civ. P. 59(e) motion. These orders are not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B) (2006). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2006). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong. Slack v. McDaniel, 529 U.S. 473, 484 (2000); see Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable, and that the motion states a debatable claim of the denial of a constitutional right. Slack, 529 U.S. at 484-85.

We have independently reviewed the record and conclude that Lora has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We

deny Lora's motions for subpoena forms and for summary judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED